

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

GRISSELLE RAMOS, on behalf of herself )  
and others similarly situated, )

Plaintiff, )

v. )

PLAYTEX PRODUCTS, INC., RC2 )  
CORPORATION, LEARNING CURVE )  
BRANDS, INC., and MEDELA, INC., )  
Defendants. )

Case No. 08-CV-2703

Judge Lefkow

Magistrate Judge Schenkier

DINA SCALIA, et al., on behalf of )  
themselves and others similarly situated, )

Plaintiffs, )

v. )

PLAYTEX PRODUCTS, INC., RC2 )  
CORPORATION, LEARNING CURVE )  
BRANDS, INC., and MEDELA, INC., )  
Defendants. )

Case No. 08-CV-2828

Judge Lefkow

Magistrate Judge Ashman

JESSICA SMITH, on behalf of herself )  
and all others similarly situation, )

Plaintiff, )

v. )

PLAYTEX PRODUCTS, INC., RC2 )  
CORPORATION, LEARNING CURVE )  
BRANDS, INC., and MEDELA, INC., )  
Defendants. )

Case No. 08-CV-3352

Judge Lefkow

Magistrate Judge Brown

**DEFENDANT PLAYTEX PRODUCTS, INC.'S  
MOTION TO DISMISS PLAINTIFFS' COMPLAINTS FOR LACK OF STANDING OR,  
IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT**

Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(e), Defendant Playtex Products, Inc. (“Playtex”), by and through its undersigned attorneys, respectfully moves this Court to dismiss Plaintiffs’ Complaints in these consolidated cases for lack of standing or, in the alternative, to order Plaintiffs to amend their Complaints and provide a more definite statement of their claims in which each Plaintiff states with specificity whether she has purchased a product manufactured by Playtex. In support of its motion, Playtex states as follows:

1. Plaintiff Ramos has filed a putative nationwide class action complaint against Playtex and three other defendants unrelated to Playtex, relating to different products manufactured by the defendants (including Playtex’s “Fridge-to-Go” vinyl portable bottle cooler) that allegedly expose children to lead.

2. Shortly after Plaintiff Ramos filed her complaint, counsel for Plaintiff Ramos filed a second putative nationwide class action complaint against the same defendants on behalf of Plaintiffs Scalia, Suarez, and Lopez, with the sole difference between the complaints being the plaintiffs’ names and states of citizenship.

3. On June 11, 2008, Plaintiff Smith filed a third putative nationwide class action complaint against the same defendants. Although Plaintiff Smith is represented by different counsel, the only difference between her complaint and the earlier two complaints are the plaintiffs’ names and states of citizenship.

4. The Court has consolidated the Ramos, Scalia, and Smith cases. (Dkt. ## 40, 60).

5. Plaintiffs do not claim that any of them actually purchased a Playtex product. Rather, Plaintiff Ramos alleges that she “purchased *one or more* VPBPs [vinyl plastic baby products] based on Defendants’ representations that the products are safe for children and are intended to be used in connection with feeding infants.” (Ramos Compl. at ¶ 8) (emphasis

added). Plaintiffs Scalia, Suarez, Lopez, and Smith have made the identical allegation. (Scalia Compl. at ¶ 11; Smith Compl. at ¶ 8).

6. The Court should dismiss Plaintiffs' Complaints against Playtex for lack of standing because the Complaints do not clearly and specifically allege that Plaintiffs' injuries were caused by or are fairly traceable to Playtex's conduct and not the result of the independent action of some third party. Plaintiffs' vague, speculative, and disjunctive allegations that each of them has purchased "one or more" of three different vinyl plastic baby products made by three different defendants are insufficient to confer standing on Plaintiffs.

7. In the alternative, the Court should order Plaintiffs to amend their Complaints and provide a more definite statement of their claims in which each Plaintiff states with specificity whether she has purchased a Playtex "Fridge-to-Go" vinyl portable bottle cooler.

8. Playtex is filing contemporaneously herewith a brief in support of this motion.

WHEREFORE, for the reasons set forth herein and in the accompanying brief, Playtex respectfully requests, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(e), that the Court dismiss Plaintiffs' Complaints against Playtex for lack of standing or, in the alternative, order Plaintiffs to amend their Complaints and provide a more definite statement of their claims in which each Plaintiff states with specificity whether she has purchased a product manufactured by Playtex.

Respectfully submitted,

**LEWIS, RICE & FINGERSH, L.C.**

Dated: July 2, 2008

By: /s/ Andrew Rothschild

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*Counsel for Defendant Playtex Products, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of July 2008, I caused a copy of the foregoing document, DEFENDANT PLAYTEX PRODUCTS, INC.'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT, to be filed electronically. Notice of this filing will be sent to the following counsel by operation of the Court's ECF system. Parties may access this filing through the Court's system.

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